

BILL ANALYSIS

Senate Research Center

H.B. 471
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 471 resolves concern brought by first responders who are terminated following a leave of absence due to a work-related injury lasting longer a year and prior to the injured employee's workers' compensation benefits taking effect.

H.B. 471 seeks to prevent the early termination of first responders recovering from an on-duty injury or illness by establishing leave protections for first responders employed by apolitical subdivision.

H.B. 471 revises the scope of the provision which makes certain presumptions inapplicable to a first responder due to tobacco usage. H.B. 471 further expands when first responders may claim a presumption for a heart attack or stroke as work-related injury and compensable for workers' compensation benefits to up to eight hours after the end of the shift.

H.B. 471 amends current law relating to the entitlement to and claims for benefits for certain first responders and other employees related to illness and injury.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Local Government Code, by adding Chapter 177A, as follows:

CHAPTER 177A. ILLNESS OR INJURY LEAVE OF ABSENCE FOR FIREFIGHTERS, POLICE OFFICERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL OF POLITICAL SUBDIVISION

Sec. 177A.001. DEFINITIONS. Defines "emergency medical services personnel," "firefighter," and "police officer."

Sec. 177A.002. EFFECT ON LABOR AGREEMENTS. Requires that a collective bargaining, meet and confer, or other similar agreement that provides a benefit for an ill or injured employee, notwithstanding any other law, including certain sections, provide a benefit that, at a minimum, complies with this chapter.

Sec. 177A.003. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE. (a) Requires a political subdivision to provide to a firefighter, police officer, or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. Provides that the leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. Requires the political subdivision, if necessary, to continue the leave for at least one year.

(b) Authorizes the political subdivision's governing body, at the end of the one-year period, to extend the leave of absence under Subsection (a) at full or reduced

pay. Authorizes the firefighter, police officer, or emergency medical services personnel, if the person's leave is not extended or the person's salary is reduced below 60 percent of the person's regular monthly salary and the person is a member of a pension fund, to retire on pension until able to return to duty.

(c) Authorizes the firefighter, police officer, or emergency medical services personnel, if the person is not a member of a retirement system with disability retirement benefits and is temporarily disabled by a line of duty injury or illness and if the one-year period and any extensions granted by the governing body have expired, to use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) Provides that the firefighter, police officer, or emergency medical services personnel, if the one-year period and any extensions granted by the governing body have expired, is placed on temporary leave.

Sec. 177A.004. OTHER ILLNESS OR INJURY LEAVE OF ABSENCE. Authorizes a firefighter, police officer, or emergency medical services personnel who is temporarily disabled by an injury or illness that is not related to the person's line of duty to:

(1) use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave; or

(2) have another firefighter, police officer, or emergency medical services personnel volunteer do the person's work while the person is temporarily disabled by the injury or illness.

Sec. 177A.005. RETURN TO DUTY. (a) Authorizes a firefighter, police officer, or emergency medical services personnel, if able, to return to light duty while recovering from a temporary disability. Authorizes the light duty assignment, if medically necessary, to continue for at least one year.

(b) Requires a firefighter, police officer, or emergency medical services personnel, after recovery from a temporary disability, to be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Authorizes another firefighter, police officer, or emergency medical services personnel to voluntarily do the work of an injured firefighter, police officer, or emergency medical services personnel until the person returns to duty.

SECTION 2. Amends Section 415.021(c-2), Labor Code, as follows

(c-2) Requires the commissioner of workers' compensation, in determining whether to assess an administrative penalty involving a claim in which the insurance carrier provided notice under Section 409.021(a-3) (relating to providing that an insurance carrier is not required to comply with initiating compensation if certain criteria are met), to consider whether:

(1) the employee cooperated with the insurance carrier's investigation of the claim, including whether the employee promptly and accurately responded to an inquiry by the insurance carrier regarding the use of cigarettes, e-cigarettes, or tobacco products by the employee or a person regularly residing with the employee as described by Section 607.052 (Applicability), Government Code;

(1-a) a person who regularly resided with the employee as described by Section 607.052, Government Code, cooperated with the insurance carrier's investigation into, and promptly and accurately responded to an inquiry by the insurance carrier regarding, the person's use of cigarettes, e-cigarettes, or tobacco products as described by that section; and

(2)-(3) makes no changes to these subdivisions.

SECTION 3. Amends Section 504.051(a), Labor Code, to require that benefits provided under Chapter 504 (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions) be offset, to the extent applicable, by any amount for incapacity received as provided by Chapter 177A, Local Government Code.

SECTION 4. Amends Section 607.052, Government Code, by amending Subsection (b) and adding Subsection (i), as follows:

(b) Provides that a presumption under Subchapter B (Diseases or Illnesses Suffered by Detention Officers, Custodial Officers, Firefighters, Peace Officers, and Emergency Medical Technicians) does not apply if the disease or illness for which benefits or compensation is sought is known to be caused by the use of tobacco and

(A) the firefighter, peace officer, or emergency medical technician has regularly used cigarettes, e-cigarettes, or another tobacco product in the seven years preceding the diagnosis of the disease or illness, rather than is or has been a user of tobacco; or

(B) a person regularly residing with the firefighter, peace officer, or emergency medical technician has, while regularly residing with the firefighter, peace officer, or emergency medical technician, regularly used cigarettes, e-cigarettes, or another tobacco product during the period described by Paragraph (A), rather than the firefighter's, peace officer's, or emergency medical technician's spouse has, during the marriage, been a user of tobacco that is consumed through smoking.

(i) Defines "cigarette," "e-cigarette," and "tobacco product."

SECTION 5. Amends Section 607.056, Government Code, as follows:

Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) Provides that a firefighter, peace officer, or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a firefighter, peace officer, or emergency medical technician if:

(1) while on duty, the firefighter, peace officer, or emergency medical technician:

(A) was engaged in a situation that involved stressful or strenuous physical activity, rather than involved nonroutine stressful or strenuous physical activity, involving fire suppression, rescue, hazardous material response, emergency medical services, law enforcement, or other emergency response activity; or

(B) makes a conforming change to this paragraph; and

(2) the acute myocardial infarction or stroke occurred not later than eight hours after the end of a shift in which, rather than occurred while, the firefighter, peace officer, or emergency medical technician was engaging in the activity described under Subdivision (1).

(b) Makes a conforming change to this subsection.

SECTION 6. Makes application of Section 177A.002, Local Government Code, as added by this Act, prospective.

SECTION 7. Makes application of Section 504.051(a), Labor Code, as amended by this Act, prospective.

SECTION 8. Makes application of Sections 607.052(b) and 607.056, Government Code, as amended by this Act, prospective.

SECTION 9. Effective date: upon passage or September 1, 2023.